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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the First Amended Accusation
Against:

13 SYBIL STRAMLER GEBHARD
14 14481 Union Avenue
San Jose, CA 95124

15 Pharmacist License No. RPH 35430

16 Respondent.

Case No. 2755

OAH No. N2005060268

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
23 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
24 by Bill Lockyer, Attorney General of the State of California, by Gloria A. Barrios, Deputy
25 Attorney General.

26 2. Respondent Sybil Stramler Gebhard (Respondent) is represented in this
27 proceeding by attorney, Louis C. Castro, Esq., whose address is 1004 Willow Street, San Jose,
28 CA 95125.

3. On or about August 13, 1980, the Board of Pharmacy issued Pharmacist License No. RPH 35430 to Sybil Stramler Gebhard (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation Case No. 2755 and will expire on January 31, 2006, unless renewed.

JURISDICTION

4. Accusation Case No. 2755 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 29, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of the First Amended Accusation is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the First Amended Accusation. The admissions made by respondent herein are only for the purpose

1 of this proceeding or any proceedings in which the Board of Pharmacy or other licensing agency
2 is involved, and shall not be admissible in any other criminal or civil proceeding.

3 9. Respondent agrees that her Pharmacist License is subject to discipline and
4 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
5 Order below.

6 CONTINGENCY

7 10. This stipulation shall be subject to approval by the Board of Pharmacy.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
9 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
10 without notice to or participation by Respondent or her counsel. By signing the stipulation,
11 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
12 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
13 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
14 be of no force or effect, it shall be inadmissible in any legal action between the parties, and the
15 Board shall not be disqualified from further action by having considered this matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
18 force and effect as the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Disciplinary Order:

22 DISCIPLINARY ORDER

23 IT IS HEREBY ORDERED that Pharmacist License No. RPH 35430 issued to
24 Respondent Sybil Stramler Gebhard is revoked. However, the revocation is stayed and
25 Respondent is placed on probation for five (5) years on the following terms and conditions.

26 1. **Actual Suspension** - Respondent Sybil Stramler Gebhard will be allowed
27 to continue her present employment following all the relevant terms and conditions of this
28 stipulation until reviewed by the Pharmacists Recovery Program. If the PRP determines that

1 respondent cannot work, then Pharmacist License No. RPH 35430 issued to Sybil Stramler
2 Gebhard is suspended until the PRP allows her to work.

3 During suspension, Respondent shall not enter any pharmacy area or any portion of
4 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
5 of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and
6 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
7 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
8 patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee
9 of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous
10 drugs and devices or controlled substances.

11 Respondent shall not engage in any activity that requires the professional judgment
12 of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
13 Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity
14 licensed by the Board.

15 1. **Obey All Laws.** Respondent shall obey all state and federal laws and
16 regulations substantially related to or governing the practice of pharmacy.

17 Respondent shall report any of the following occurrences to the Board, in
18 writing, within 72 hours of such occurrence:

- 19 • an arrest or issuance of a criminal complaint for violation of any provision of
20 the Pharmacy Law, state and federal food and drug laws, or state and federal
21 controlled substances laws
- 22 • a plea of guilty or nolo contendere in any state or federal criminal proceeding
23 to any criminal complaint, information or indictment
- 24 • a conviction of any crime
- 25 • discipline, citation, or other administrative action filed by any state and federal
26 agency which involves Respondent's license or which is related to the practice
27 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
28 or charging for any drug, device or controlled substance.

1 2. **Reporting to the Board.** Respondent shall report to the Board
2 quarterly. The report shall be made either in person or in writing, as directed. Respondent
3 shall state under penalty of perjury whether there has been compliance with all the terms and
4 conditions of probation. If the final probation report **is not** made as directed, probation shall
5 be extended automatically until such time as the final report is made and accepted by the
6 Board.

7 3. **Interview with the Board.** Upon receipt of reasonable notice,
8 Respondent shall appear in person for interviews with the Board upon request at various
9 intervals at a location to be determined by the Board. Failure to appear for a scheduled
10 interview without prior notification to Board staff shall be considered a violation of probation.

11 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
12 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
13 compliance with the terms and conditions of her probation. Failure to comply shall be
14 considered a violation of probation.

15 5. **Continuing Education.** Respondent shall provide evidence of efforts
16 to maintain skill and knowledge as a pharmacist as directed by the Board.

17 6. **Notice to Employers.** Respondent shall notify all present and
18 prospective employers of the decision in case number 2755 and the terms, conditions and
19 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
20 this decision, and within 15 days of Respondent undertaking new employment, Respondent
21 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
22 writing acknowledging the employer has read the decision in case number 2755.

23 If Respondent works for or is employed by or through a pharmacy employment
24 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
25 every pharmacy of the terms and conditions of the decision in case number 2755 in advance of
26 the Respondent commencing work at each pharmacy.

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1 "Employment" within the meaning of this provision shall include any full-time, part-
2 time, temporary, relief or pharmacy management service as a pharmacist, whether the
3 Respondent is considered an employee or independent contractor.

4 7. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
5 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
6 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
7 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
8 order. In the event that respondent is currently the pharmacist-in-charge of a pharmacy, the
9 pharmacy shall retain an independent consultant at its expense who shall be responsible for
10 reviewing pharmacy operations on a quarterly basis for compliance by respondent with state
11 and federal laws and regulations governing pharmacy and for compliance by respondent with
12 the obligations of a pharmacist-in-charge ("PIC"). The consultant shall be a pharmacist
13 licensed by and not on probation to the Board and whose name shall be submitted to the Board
14 for its approval within thirty (30) days of the effective date of this decision. Respondent shall
15 not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which she is
16 not the current PIC. The Board may, in the case of an employment change by respondent or
17 for other reasons as deemed appropriate by the Board, bar the respondent from acting as a
18 pharmacist-in-charge.

19 8. **Reimbursement of Board Costs.** Respondent shall pay to the Board
20 its costs of investigation and prosecution in the amount of \$8,500.00. Respondent's first
21 payment will be deferred for one year from the date of the Board's decision. Respondent shall
22 make said payments as follows: \$150.00 shall be paid the first of every month until the total
23 amount of \$8,500.00 is paid in full.

24 The filing of bankruptcy by Respondent shall not relieve Respondent of her
25 responsibility to reimburse the Board its costs of investigation and prosecution.

26 If respondent fails to pay the costs as specified by the Board on or before the
27 date determined by the Board, the Board shall, without affording the respondent notice and the
28 opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

1 9. **Probation Monitoring Costs.** Respondent shall pay the costs
2 associated with probation monitoring as determined by the Board each and every year of
3 probation. Such costs shall be payable to the Board at the end of each year of probation.
4 Failure to pay such costs shall be considered a violation of probation.

5 10. **Status of License.** Respondent shall, at all times while on probation,
6 maintain an active current license with the Board, including any period during which
7 suspension or probation is tolled.

8 If Respondent's license expires or is cancelled by operation of law or otherwise,
9 upon renewal or reapplication, Respondent's license shall be subject to all terms and
10 conditions of this probation not previously satisfied.

11 11. **License Surrender while on Probation/Suspension.** Following the
12 effective date of this decision, should Respondent cease practice due to retirement or health, or
13 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
14 her license to the Board for surrender. The Board shall have the discretion whether to grant
15 the request for surrender or take any other action it deems appropriate and reasonable. Upon
16 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
17 terms and conditions of probation.

18 Upon acceptance of the surrender, Respondent shall relinquish her pocket
19 license to the Board within 10 days of notification by the Board that the surrender is accepted.
20 Respondent may not reapply for any license from the Board for three years from the effective
21 date of the surrender. Respondent shall meet all requirements applicable to the license sought
22 as of the date the application for that license is submitted to the Board.

23 12. **Notification of Employment/Mailing Address Change.** Respondent
24 shall notify the Board in writing within 10 days of any change of employment. Said
25 notification shall include the reasons for leaving and/or the address of the new employer,
26 supervisor or owner and work schedule if known. Respondent shall notify the Board in
27 writing within 10 days of a change in name, mailing address or phone number.

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1 13. **Tolling of Probation.** Should Respondent regardless of residency, for
2 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
3 California, Respondent must notify the Board in writing within 10 days of cessation of the
4 practice of pharmacy or the resumption of the practice of pharmacy. It is a violation of
5 probation for Respondent's probation to remain tolled pursuant to the provisions of this
6 condition for a period exceeding three years.

7 " Cessation of practice " means any period of time exceeding 30 days in which
8 Respondent is not engaged in the practice of pharmacy as defined in Section
9 4052 of the Business and Professions Code."

10 14. **Violation of Probation.** If Respondent violates probation in any
11 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
12 probation and carry out the disciplinary order which was stayed. If a petition to revoke
13 probation or an accusation is filed against Respondent during probation, the Board shall have
14 continuing jurisdiction and the period of probation shall be extended, until the petition to
15 revoke probation or accusation is heard and decided.

16 If Respondent has not complied with any term or condition of probation, the
17 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
18 be extended until all terms and conditions have been satisfied or the Board has taken other
19 action as deemed appropriate to treat the failure to comply as a violation of probation, to
20 terminate probation, and to impose the penalty which was stayed.

21 15. **Completion of Probation.** Upon successful completion of probation,
22 Respondent's license will be fully restored.

23 16. **Restricted Practice.** Respondent's practice of pharmacy shall be
24 restricted as determined by the Pharmacists Recovery Program and under the terms of her
25 criminal probation. Respondent shall submit proof satisfactory to the Board of compliance
26 with this term of probation.

27 17. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**
28 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists

1 Recovery Program for evaluation and shall successfully participate in and complete the
2 treatment contract and any subsequent addendums as recommended and provided by the PRP
3 and as approved by the Board. The costs for PRP participation shall be borne by the
4 Respondent.

5 If Respondent is currently enrolled in the PRP, said participation is now
6 mandatory and is no longer considered a self-referral under Business and Professions Code
7 section 4363, as of the effective date of this decision. Respondent shall successfully
8 participate in and complete her current contract and any subsequent addendums with the PRP.
9 Probation shall be automatically extended until Respondent successfully completes her
10 treatment contract. Any person terminated from the program shall be automatically suspended
11 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
12 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
13 probation for any violation of this term.

14 **18. Random Drug Screening.** Respondent, at her own expense, shall
15 participate in random testing, including but not limited to biological fluid testing (urine,
16 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
17 The length of time shall be for the entire probation period and the frequency of testing will be
18 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
19 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
20 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
21 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
22 in the immediate suspension of practice by Respondent. Respondent may not resume the
23 practice of pharmacy until notified by the Board in writing.

24 **19. Abstain from Drugs and Alcohol Use.** Respondent shall completely
25 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
26 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
27 practitioner as part of a documented medical treatment. Upon request of the Board,
28 Respondent shall provide documentation from the licensed practitioner that the prescription

1 was legitimately issued and is a necessary part of the treatment of the Respondent.

2 20. **Supervised Practice.** Respondent shall practice only under the
3 supervision of a pharmacist not on probation with the Board's staff. Respondent shall not
4 practice until the supervisor is approved by the Board. The supervision shall be, as required
5 by the Board's staff, either:

6 Continuous - 75% to 100% of a work week

7 Substantial - At least 50% of a work week

8 Partial - At least 25% of a work week

9 Daily Review - Supervisor's review of probationer's daily activities within 24
10 hours

11 Within 30 days of the effective date of this decision, Respondent shall have her supervisor
12 submit notification to the Board's staff in writing stating the supervisor has read the decision
13 in case number 2755 and is familiar with the level of supervision as determined by the Board.

14 If Respondent changes employment, Respondent shall have her new supervisor,
15 within 15 days after employment commences, submit notification to the Board's staff in
16 writing stating the direct supervisor and pharmacist-in-charge have read the decision in case
17 number 2755 and are familiar with the level of supervision as determined by the Board's staff.

18 Within 10 days of leaving employment, Respondent shall notify the Board's
19 staff in writing.

20 21. **No Ownership of Premises.** Respondent shall not own, have any legal
21 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
22 trustee, associate, or partner of any business, firm, partnership, or corporation currently or
23 hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial
24 interest in any entity licensed by the Board within 90 days following the effective date of this
25 decision and shall immediately thereafter provide written proof thereof to the Board.

26 22. **Criminal Probation/Parole Reports.** Respondent shall provide a copy
27 of the conditions of any criminal probation/parole to the Board, in writing, within 10 days of
28 the issuance or modification of those conditions. Respondent shall provide the name of her

1 probation/parole officer to the Board, in writing, within 10 days after that officer is designated
2 or a replacement for that officer is designated. Respondent shall provide a copy of all criminal
3 probation/parole reports to the Board within 10 days after Respondent receives a copy of such
4 a report.

5 ACCEPTANCE

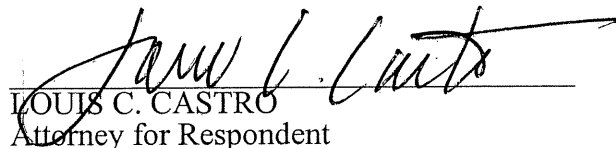
6 I have carefully read the above Stipulated Settlement and Disciplinary Order
7 and have fully discussed it with my attorney, Louis C. Castro. I understand the stipulation and
8 the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
9 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
10 Decision and Order of the Board of Pharmacy.

11
12 DATED: Sept. 19, 2005

13
14 
15 SYBIL STRAMLER GEBHARD
Respondent

16
17 I have read and fully discussed with Respondent Sybil Stramler Gebhard the
18 terms and conditions and other matters contained in the above Stipulated Settlement and
19 Disciplinary Order. I approve its form and content.

20
21 DATED: Sept. 19, 2005

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23 
24 LOUIS C. CASTRO
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 9/20/05.

BILL LOCKYER, Attorney General
of the State of California



GLORIA A. BARRIOS
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: SF2004400265
GEB.STIP.WPD

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

SYBIL STRAMLER GEBHARD
14481 Union Avenue
San Jose, CA 95125

Pharmacist License No. RPH 35430

Respondent.

Case No. 2755

OAH No. N2005060268

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 23, 2005.

It is so ORDERED November 23, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2755

1 BILL LOCKYER, Attorney General
of the State of California
2 GLORIA A. BARRIOS, State Bar No. 94811
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, 20th Floor
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8 Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2755

13 SYBIL STRAMLER GEBHARD
14 14481 Union Avenue
San Jose, CA 95124

FIRST AMENDED ACCUSATION

15 Pharmacist License No. RPH 35430,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
22 Consumer Affairs.
- 23 2. On or about August 13, 1980, the Board issued Pharmacist License No.
24 RPH 35430 to Sybil Stramler Gebhard (Respondent). The Pharmacist License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on January 31, 2006,
26 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a license under this chapter. A plea or verdict of guilty or conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

5. Section 4300 of the Code states:

"Every license issued may be suspended or revoked."

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10. Health and Safety Code section 11350(a) provides, in pertinent part, that it is unlawful to possess a controlled substance unless upon the legitimate and lawful written prescription of a licensed physician, dentist, podiatrist or veterinarian.

11. Health and safety Code section 11157 provides, in pertinent part, that it is unlawful to issue a prescription that is false or fictitious in any respect.

12. Health and Safety Code section 11175 provides, in pertinent part, no person, shall obtain or possess a prescription that does not comply with this division, nor shall any person obtain a controlled substance by means of a prescription which does not comply with this division or possess a controlled substance obtained by such a prescription.

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

14. “AcipHex” is a brand name for “Rabeprazole,” an anti ulcer drug and a dangerous drug pursuant to Business and Professions Code section 4022.

15. “Allegra” is a brand name for “**Fexofinadine**,” an antihistamine and a dangerous drug pursuant to Business and Professions Code section 4022.

16. **“Ambien”** is a brand name for **“Zolpidem Tartrate,”** and is a non-benzodiazepine hypnotic of the imidasopyridine class. It is a Schedule IV controlled substance pursuant to Health and Safety Code 11057 (d) and a dangerous drug pursuant to Business and Professions Code section 4022. It is indicated for the short-term treatment of insomnia. It is a central nervous system depressant and should be used cautiously in combination with other central nervous system depressants. It should be administered cautiously to patients exhibiting signs or symptoms of depression because of the risk of suicide. Because of the risk of habituation and dependence, individuals with a history of addiction to or abuse of drugs or alcohol should be carefully monitored while receiving Ambien.

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1 17. **"Amoxicillin"** is an antibiotic and a dangerous drug pursuant to Business
2 and Professions Code section 4022.

3 18. **"Anaprox"** and **"Anaprox DS"** are anti-inflammatory drugs and dangerous drugs
4 pursuant to Business and Professions Code section 4022.

5 19. **"Ativan"** is a brand name for **"Lorazepam,"** an anti-anxiety drug, a Schedule IV
6 controlled substance pursuant to Health and Safety Code section 11057 (d)(11), and a dangerous
7 drug pursuant to Business and Professions Code section 4022.

8 20. **"Benadryl"** is a brand name for **"Diphenhydramine Hydrochloride"**.
9 It is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to
10 control dykinetic movement.

11 21. **"Benzole Peroxide"** is a topical substance and a dangerous drug pursuant to
12 Business and professions Code section 4022.

13 22. **"Benztropine"** and **"Cogentin"** is a brand name for **"Antidyskinetic"** and
14 is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat
15 Parkinson's disease.

16 23. **"Butalbital"** and **"B-A-C"** and **"Fiorinal"** are brand names for **"Aspirin,"**
17 **"Butalbital,"** and **"Caffeine,"** anti-migraines and are dangerous drugs pursuant to Business and
18 Professions Code section 4022.

19 24. **"Celebrex"** is a brand name for **"Celecoxib"** and a dangerous drug pursuant to
20 Business and Professions Code section 4022.

21 25. **"Chlorhexidine,"** is a dental implant and a dangerous drug pursuant to Business
22 and Professions Code section 4022.

23 26. **"Claritin," "Claritin D"** and **"Loresedin,"** antihistamines, are brand names for
24 **"Loratadine"** and are dangerous drugs pursuant to Business and Professions Code section 4022.

25 27. **"Cleocin"** is an antibiotic and a dangerous drug pursuant to Business and
26 Professions Code section 4022.

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1 28. **"Codeine Phosphate/APAP"** is a brand name for codeine with acetaminophen
2 and a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)
3 and a dangerous drug pursuant to Business and Professions Code section 4022.

4 29. **"Concerta ER"** is a brand name for **"Methyphenidate,"** a Schedule II controlled
5 substance as defined by section Health and Safety Code section 11055(d)(6), and a dangerous
6 drug pursuant to Business and Professions Code section 4022. Concerta ER is used to treat
7 narcolepsy and attention deficit disorder.

8 30. **"Depakote"** is a brand name for **"Divalproex Sodium,"** an anti-ulcer drug and
9 a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat
10 migraine headaches, epilepsy and the acute manic episodes associated with Bipolar disorder.

11 31. **"Dextrostat"** is a brand name for **"Dextroamphetamine,"** a Schedule II
12 controlled substance pursuant to Health and Safety Code section 11055(d) and a dangerous drug
13 pursuant to Business and Professions Code section 4022. It is an amphetamine indicated in the
14 treatment of narcolepsy and attention deficit disorder.

15 32. **"Diflucan"** is a brand name for **"Fluconazole,"** an antifungal drug and
16 a dangerous drug pursuant to Business and Professions Code section 4022.

17 33. **"Doxycycline"** is a dangerous drug pursuant to Business and Professions Code
18 section 4022.

19 34. **"Duofilm"** is a dangerous drug pursuant to Business and Professions Code
20 section 4022.

21 35. **"Entex PSE," "Entex LA,"** and **"Drituss GP,"** cold remedies, are brand names
22 for **"Phenylpropanolamine," "Phenylephrine"** and **"Guaifenesin"** and are dangerous drugs
23 pursuant to Business and Professions Code section 4022.

24 36. **"Fioricet"** is a brand name for **"Acetaminophen, Butalbital and Caffeine,"**
25 an anti-migraine drug and a dangerous drug pursuant to Business and Professions Code
26 section 4022.

27 37. **"Floxin"** is a brand name for **"Ofloxacin,"** an antibiotic and a dangerous drug
28 pursuant to Business and Professions Code section 4022.

- 1 38. **“Geodon”** is a brand name for **“Ziprasidone”** and a dangerous drug pursuant to
2 Business and Professions Code section 4022. It is used to treat schizophrenia.
- 3 39. **“Haldol”** is a brand name for **“Haloperidol,”** an anti-psychotic drug and
4 a dangerous drug pursuant to Business and Professions Code section 4022.
- 5 40. **“Hydrocortisone”** is a brand name for **“Corticosteroid”** and a dangerous drug
6 pursuant to Business and Professions Code section 4022.
- 7 41. **“Imitrex”** is a brand name for **“Sumatriptan,”** an anti-migraine drug and
8 a dangerous drug pursuant to Business and Professions Code section 4022.
- 9 42. **“Imitrx”** is a brand name for **“Sumatriptan,”** an anti-migraine drug and
10 a dangerous drug pursuant to Business and Professions Code section 4022.
- 11 43. **“Ionamin”** or **“Adipex-P”** are brand names for **“Phentermine,”** diet pills,
12 a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(f)(2),
13 and a dangerous drug pursuant to Business and Professions Code section 4022. Phentermine
14 has a stimulant effect on the central nervous system.
- 15 44. **“Klonopin”** is a brand name for **“Clonazepam,”** an anti-anxiety drug, a Schedule IV
16 controlled substance pursuant to Health and Safety Code section 11057 (d)(5), and a dangerous drug
17 pursuant to Business and Professions Code section 4022.
- 18 45. **“Lamisil”** is a brand name for **“Terbinafine,”** an antifungal drug and a dangerous
19 drug pursuant to Business and Professions Code section 4022.
- 20 46. **“Lioresal”** is a brand name for **“Baclofen,”** a muscle relaxant and a dangerous
21 drug pursuant to Business and Professions Code section 4022.
- 22 47. **“Maxidone”** is a brand name for **“Hydrocodone Bitartrate and Acetaminopen,”**
23 an analgesic, a Schedule III controlled substance pursuant to Health and Safety Code section 11056
24 (e) and a dangerous drug pursuant to Business and Professions Code section 4022.
- 25 48. **“Meclizine”** is a dangerous drug pursuant to Business and Professions Code
26 section 4022.
- 27 49. **“MetroGel”** is a brand name for **“Metronidazole,”** a topical gel and a dangerous
28 drug pursuant to Business and Professions Code section 4022.

- 1 50. **"Miconazole"** is an antifungal drug and a dangerous drug pursuant to Business
2 and Professions Code section 4022.
- 3 51. **"Mirtazapine"** is an antidepressant and a dangerous drug pursuant to Business
4 and Professions Code section 4022.
- 5 52. **"Naprelan"** is a brand name for **"Naproxen,"** an anti-inflammatory drug and
6 a dangerous drug pursuant to Business and Professions Code section 4022.
- 7 53. **"Nasacort AQ," "Nasacort Inh,"** or **"Triamcinolone Cream"** is a topical
8 antiasthmatic cream and a dangerous drug pursuant to Business and Professions Code section 4022.
- 9 54. **"Nasacrom"** is a brand name for **"Cromolyn,"** an anti-asthmatic drug and
10 a dangerous drug pursuant to Business and Professions Code section 4022.
- 11 55. **"Nazazair"** is a brand name for **"Naphazoline,"** an anti-asthmatic drug and
12 a dangerous drug pursuant to Business and Professions Code section 4022.
- 13 56. **"Nexium"** is a brand name for **"Esomeprazole"** and a dangerous drug pursuant
14 to Business and Professions Code section 4022.
- 15 57. **"Noroxin"** is a brand name for **"Norfloxacin,"** an antibiotic and a dangerous
16 drug pursuant to Business and Professions Code section 4022.
- 17 58. **"Oxytocin Nasal Spray"** is a hormone and a dangerous drug pursuant to
18 Business and Professions Code section 4022.
- 19 59. **"Patanol"** is a brand name for **"Olopatadine Ophthalmic,"** an anti-asthmatic
20 drug and a dangerous drug pursuant to Business and Professions Code section 4022.
- 21 60. **"Pepcid"** is a brand name for **"Famotidine,"** an anti-ulcer drug and a dangerous
22 drug pursuant to Business and Professions Code section 4022.
- 23 61. **"Phedimetrazine"** is a dangerous drug pursuant to Business and Professions
24 Code section 4022.
- 25 62. **"Plegine"** is a brand name for **"Phendimetrazine,"** diet pills, a Schedule III
26 controlled substance pursuant to Health and Safety Code section 11056(b)(6), and a dangerous
27 drug pursuant to Business and Professions Code section 4022.
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1 63. **"Poly-Histine CS"** is a cough medication and a dangerous drug pursuant to
2 Business and Professions Code section 4022.

3 64. **"Polytrim"** is a brand name for **"Polymymix,"** an antibiotic and a dangerous
4 drug pursuant to Business and Professions Code section 4022.

5 65. **"Prevacid"** is a brand name for **"Lansoprazole,"** an anti-ulcer drug and
6 a dangerous drug pursuant to Business and Professions Code section 4022.

7 66. **"Promethazine Cough Syrup with Codeine"** is a Schedule V controlled
8 substance pursuant to Health and Safety Code section 11058 and a dangerous drug pursuant to
9 Business and Professions Code section 4022.

10 67. **"Propranolo"** is a beta-blocker and a dangerous drug pursuant to Business and
11 Professions Code section 4022.

12 68. **"Protonix"** is a brand name for **"Pantoprazole,"** a gastrointestinal drug and
13 a dangerous drug pursuant to Business and Professions Code section 4022.

14 69. **"Prozac"** is a brand name for **"Fluoxetine,"** an anti-depressant and a dangerous
15 drug pursuant to Business and Professions Code section 4022.

16 70. **"Risperidal"** is a brand name for **"Risperidone,"** an antipsychotic drug and
17 a dangerous drug pursuant to Business and Professions Code section 4022.

18 71. **"Seroquel"** is a brand name for **"Quetiapine"** and is a dangerous drug pursuant
19 to Business and Professions Code section 4022.

20 72. **"Soma"** is a brand name for **"Carisoprodol,"** a muscle relaxant and sedative.
21 It is a dangerous drug pursuant to Business and Professions Code section 4022.

22 73. **"Spectazole"** is a brand name for **"Econazole"** and a dangerous drug pursuant to
23 Business and Professions Code section 4022.

24 74. **"Thorazine"** is a brand name for **"Chlorpromazine,"** a tranquilizer and
25 a dangerous drug pursuant to Business and Professions Code section 4022.

26 75. **"Tizanidine"** or **"Zanaflex"** is a muscle relaxant and a dangerous drug pursuant
27 to Business and Professions Code section 4022.

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- 1 76. **“Topamax”** is a brand name for **“Topiramate”** and a dangerous drug pursuant to
2 Business and Professions Code section 4022.
- 3 77. **“Trazodone”** is a brand name for **“Desyrel,”** an antidepressant and a dangerous
4 drug pursuant to Business and Professions Code section 4022.
- 5 78. **“Trihist-CS,”** cough syrup with codeine, is a Schedule V controlled substance
6 pursuant to Health and Safety Code 11058 (c)(1) and a dangerous drug pursuant to Business and
7 Professions Code section 4022.
- 8 79. **“Tussi-12,”** cough syrup, is a dangerous drug pursuant to Business and
9 Professions Code section 4022.
- 10 80. **“Tylenol with Codeine Elixir”** is a brand name for **“Acetaminophen/Codeine,”**
11 an analgesic, a Schedule V controlled substance pursuant to Health and Safety Code section
12 11058(c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.
- 13 81. **“Tylenol with Codeine No. 3”** is a brand name for **“Acetaminophen/Codeine,”**
14 an analgesic, a Schedule III controlled substance pursuant to Health and Safety Code section
15 11056(e)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.
- 16 82. **“Ultram”** and **“Ultracet”** are brand names for **“Tramadol,”** analgesic and
17 dangerous drugs pursuant to Business and Professions Code section 4022. Tramadol is indicated
18 for the management of moderate to moderately severe pain.
- 19 83. **“Ventolin Inh”** and **“Proventil HFA”** is a brand name for a **“Bronchodilator”**
20 and **“Albuterol,”** an anti-asthmatic drug and a dangerous drug pursuant to Business and
21 Professions Code section 4022.
- 22 84. **“Vicodin”** and **“Vicodin ES,”** an analgesic, a Schedule III controlled substance
23 pursuant to Health and Safety Code section 11056(e) and a dangerous drug pursuant to Business
24 and Professions Code section 4022. Vicodin is the brand name for the narcotic substance
25 **“Hydrocodone”** (a semisynthetic narcotic analgesic and antitussive with multiple actions
26 qualitatively similar to those of codeine) with the non narcotic substance acetaminophen.
27 Vicodin is also produced under the brand names **“Norco”** and **“Zydone.”** **“Hydrocodone**
28 **w/APAP,”** **“Lorcet Plus”** or **“Lortab”** are brand names for hydrocodone with **“Acetaminophen.”**

1 "Vicoprofen" is a brand name for a combination of "Hydrocodone bitartrate" and
2 "Ibuprofen," an analgesic. "Vicoprofen" is a combination of hydrocodone and ibuprofen and
3 is a Schedule III controlled substance and a dangerous drug pursuant to Business and Professions
4 Code section 4022.

5 85. "Vioxx" is a brand name for "Rofecoxib," an anti-inflammatory drug and
6 a dangerous drug pursuant to Business and Professions Code section 4022.

7 86. "Vistaril" is a brand name for "Hydroxyzine" and a dangerous drug pursuant to
8 Business and Professions Code section 4022.

9 87. "Zantac" is a brand name for "Rantidine," an anti-ulcer drug and a dangerous
10 drug pursuant to Business and Professions Code section 4022.

11 88. "Zoloft" is a brand name for "Sertraline Hydrochloride," an antidepressant
12 and a dangerous drug pursuant to Business and Professions Code section 4022.

13 89. "Z-Pak" is a brand name for "Azithromycin," an antibiotic and a dangerous
14 drug pursuant to Business and Professions Code section 4022.

15 90. "Zyprexa" is a brand name for "Olanzapine" which is a psychotropic agent.
16 It is a dangerous drug pursuant to Business and Professions Code section 4022. It is indicated for
17 the management of psychotic disorders, the treatment of schizophrenia, and the short term
18 treatment of the acute manic episodes associated with Bipolar disorder.

19 **FIRST CAUSE FOR DISCIPLINE**
20 **(Stealing Dangerous Drugs and Controlled Substances)**
21 **(Bus. & Prof. Code §4301(f))**

22 91. Respondent is subject to disciplinary action under Code section 4301(f) in that she
23 stole dangerous drugs and controlled substances from pharmacies and a board and care facility
24 where she had been employed. The circumstances are as follows:

25 92. Respondent was employed as a Pharmacist at Tropicana Drugs (Tropicana)
26 located at 1167 South King Road, San Jose, CA 95122 between December 14, 2001
27 and May, 2003.

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93. Respondent was employed as a Pharmacy Consultant at Starlight Adolescent Center Community Treatment Facility (Starlight), a board and care facility, between January, 2003 and September, 2003.

94. Respondent was employed as a Pharmacist at Leiter's Pharmacy (Leiter's) located at 1700 Park Avenue, No. 30, San Jose, CA 95126 between 1990 and March, 2001.

95. On or about May 19, 2003, respondent was admitted to the emergency room of Good Samaritan Hospital (Hospital) in San Jose, CA, for possible drug overdose. She tested positive for barbiturates. Respondent's daughter (Megan) had found respondent at home lying nude on the couch, confused and poorly responsive.

96. After respondent's admission, respondent's daughter returned to the Hospital and gave respondent's treating physician several boxes from respondent's home containing drugs which may have given rise to respondent's overdose. The boxes contained bulk pharmaceutical bottles containing large amounts of medications, including bottles with labels from Leiter's and Tropicana.

97. While hospitalized, respondent admitted she had been self-medicating for chronic back pain by filling prescriptions on the Internet and had not seen a physician in over two years.

98. On or about May 28, 2003, respondent entered the Hospital's rehabilitation program.

Drug Thefts – Leiter's Pharmacy

99. It was determined that respondent had stolen controlled substances and dangerous drugs from Leiter's while she was employed as a Pharmacist. A review of the boxes of drugs from respondent's home revealed that many of the drugs were stolen from Leiter's. The instances of respondent's drug thefts are more specifically set forth as follows:

- (1) 100 10/325 mg tablets of Norco;
- (2) 100 10/400 mg tablets of Zydone;
- (3) 200 2 mgm 6 ml. Cleocin injections;
- (4) 20 875 mg tablets of Amoxicillan;
- (5) 100 400 mg tablets of Noroxin;
- (6) 500 10 mg tablets of Claritin;

- 1 (7) 300 50 mg tablets of Floxin;
- 2 (8) 2 nasal sprays of Nasacort AQ;
- 3 (9) 150 4 mg tablets of Tizanidine;
- 4 (10) 30 200 mg tablets of Diflucan;
- 5 (11) 100 tablets of Butalbital;
- 6 (12) 200 50 mg tablets of Ultram;
- 7 (13) 200 50 mg tablets of Ultracet;
- 8 (14) 30 250 mg tablets of Lamisil;
- 9 (15) 460 tablets of Entex PSE;
- 10 (16) 200 5 ml eardrops of Patanol;
- 11 (17) 200 10 mg tablets of Ambien;
- 12 (18) 300 350 mg tablets of Soma;
- 13 (19) 60 capsules of Claritin D;
- 14 (20) 530 tablets of Vicodin ES;
- 15 (21) 200 30 mg capsules of Ionamin;
- 16 (22) 700 20 mg tablets of Pepcid;
- 17 (23) 30 15 mg of Prevacid;
- 18 (24) 200 30 mg tablets of Prevacid;
- 19 (25) 600 15 mg of BuSpar;
- 20 (26) 1,200 10 mg tablets of Lioresal;
- 21 (27) 100 10 mg tablets of Busbar;
- 22 (28) 100 35 mg tablets of Phendimetrazine;
- 23 (29) Carisprodol ASA;
- 24 (30) 100 15 mg of Phentermine;
- 25 (31) 100 30 mg of Phentermine;
- 26 (32) 580 10 mg of Prozac;
- 27 (33) 300 20 mg of Prozac;
- 28 (34) 1000 tablets of B-A-C;

- (35) 300 tablets of Lorcet Plus;
- (36) 1,100 550 mg tablets of Anaprox DS;
- (37) 500 25 mg tablets of Vioxx;
- (38) 200 50 mg tablets of Vioxx;
- (39) 4 boxes of Imitrex 50;
- (40) 100 12.5 mg tablets of Meclizine; and
- (41) 300 tablets of Fioricet.

100. The wholesale value of the stolen drugs from Leiter's, based on the amounts indicated on the bottle labels, was approximately \$70,000.00. However, the drugs recovered actually contained four to five times the amounts of drugs a bottle normally contains.

101. Between June 19, 1999, through March 8, 2001, respondent stole oxytocin nasal spray from Leiter's by fraudulently refilling a prescription allegedly for patient P.B. (RX# 699927) approximately 92 times. When questioned, respondent said the physician had given an "as needed" authorization. The physician denied this authorization. Respondent was terminated from Leiter's after this incident.

102. Leiter's had to reimburse approximately \$8,000.00 to an insurance company for fraudulent refilling of the aforementioned prescription by respondent.

103. Respondent was eventually fired from Leiter's because she would enter the pharmacy after hours after being told not to and for fraudulent refilling of the aforementioned prescription.

Drug Thefts – Tropicana Drugs

104. It was determined that respondent had stolen controlled substances and dangerous drugs from Tropicana while she was employed as a Pharmacist. A review of the boxes of drugs from respondent's home revealed that many of the drugs were stolen from Tropicana. The instances of respondent's drug thefts are more specifically set forth as follows:

- (1) 2 bottles of 30 mg tablets of Prevacid;
- (2) 3 inhalers of Proventil HFA;
- (3) 1 bottle of 10/500mg of Hydrocodone/APAP;

- 1 (4) 1 bottle of 50 mg of Ultram;
- 2 (5) 3 bottles of Vicoprofen;
- 3 (6) 1 bottle of 500 mg of Naprelan;
- 4 (7) 1 bottle of 25 mg of Vioxx;
- 5 (8) 1 bottle of 10/750 mg of Maxidone;
- 6 (9) 4 bottles of 20 mg of Prozac;
- 7 (10) 4 bottles of 10 mg of Prozac;
- 8 (11) 1 bottle of Fiorinal;
- 9 (12) 20 liquid concentrates of Haldol;
- 10 (13) 3 bottles of 15 mg tablets of Prevacid;
- 11 (14) 1 bottle of 350 mg tablets of Carisoprodol;
- 12 (15) 1 bottle of Patanol;
- 13 (16) 1 bottle of 30 20 mg tablets of Nexium;
- 14 (17) 1 bottle of 10 mg tablets of Baclofen;
- 15 (18) 1 bottle of 30 mg tablets of Lorazepam;
- 16 (19) 360 20 mg tablets of AcipHex; and
- 17 (20) 60 ampules of Ativan.

18 105. A Tropicana employee saw respondent putting bottles of medication in her
19 clothing while working as a Pharmacist. The employee informed management.

20 106. The wholesale value of the stolen drugs from Tropicana, based on the amounts
21 indicated on the bottle labels, was approximately \$10,000.00. An audit of Tropicana's drug
22 inventory revealed that there were shortages in their stocks, which were accounted for in the
23 boxes of drugs from respondent's home. The losses occurred on or about May 1, 2001 through
24 August 27, 2003, when respondent was a Pharmacist there. The most significant loss is
25 specifically set forth as follows:

- 26 (1) 30,000 tablets of 5/500mg of Vicodin.

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Drug Thefts – Starlight Treatment Facility

107. On or about May, 2003, respondent, as Pharmacy Consultant at Starlight, was asked to witness the destruction of expired or discontinued drugs from patients. As per Starlight's policy all such drugs are verified and logged and destroyed in the presence of the Director of Nursing (Director) and the Pharmacy Consultant. Respondent proposed to the Director that all drugs be turned over to her and she would take them to Tropicana for proper disposal. When the Director questioned this suggestion, respondent assured her that such a policy was within her scope as pharmacy consultant and Starlight was released of all liability once the drugs were in her possession.

108. On or about May 9, 2003, respondent removed drugs from Starlight. On or about July 16, 2003, respondent removed drugs from Starlight.

109. According to Tropicana, it is not their policy for a Pharmacy Consultant to bring back drugs from Starlight to be destroyed at Tropicana.

110. It was determined that respondent had stolen controlled substances and dangerous drugs from Starlight while she was employed as a Pharmacy Consultant. A review of the boxes of drugs from respondent's home revealed that many of the drugs were stolen from Starlight. The instances of respondent's drug thefts are more specifically set forth as follows:

- (1) 42 1 mg tablets of Clonazepam;
- (2) 21 2mg tablets of Clonazepam;
- (3) 62 1 mg tablets of Ativan;
- (4) 393 2 mg tablets of Ativan;
- (5) 10 ml 2 mg/ml injections of Ativan;
- (6) 30 ml 2 mg suspensions of Ativan;
- (7) 28 18 mg tablets of Concerta ER;
- (8) 8 36 mg tablets of Concerta ER;
- (9) 36 10 mg tablets of Zyprexa;
- (10) 39 15 mg tablets of Zyprexa;
- (11) 58 50 mg tablets of Depakote;

- 1 (12) 26 500 mg tablets of Depakote ER;
- 2 (13) 230 100 mg tablets of Topamax;
- 3 (14) 81 .5 mg tablets of Benzotropine;
- 4 (15) 27 1 mg tablets of Benzotropine;
- 5 (16) 74 2 mg tablets of Benzopine;
- 6 (17) 20 50 mg/ml tablets of Haldol;
- 7 (18) 112 5 mg tablets of Haldol;
- 8 (19) 79 20 mg tablets of Geodon;
- 9 (20) 54 40 mg tablets of Geodon;
- 10 (21) 6 60 mg tablets of Geodon;
- 11 (22) 40 20 mg tablets of Pepcid;
- 12 (23) 33 60 mg tablets of Allegra;
- 13 (24) 47 15 mg tablets of Cogentin;
- 14 (25) 71 2 mg tablets of Cogetin;
- 15 (26) 179 50 mg/ml tablets of Benadryl;
- 16 (27) 21 20 mg tablets of Propranolo;
- 17 (28) 30 5/500 mg tablets of Vicodin;
- 18 (29) 88 150 mg tablets of Rantidine;
- 19 (30) 12 473 ml implants of Chlorhexidine;
- 20 (31) 30 40 mg tablets of Protonix;
- 21 (32) 1 topical substance of Benzole Peroxide;
- 22 (33) 38.5 2 mg tablets of Risperidal;
- 23 (34) 24 3 mg tablets of Risperidal;
- 24 (35) 26 45 mg tablets of Mirtazapine;
- 25 (36) 2 2% Miconazole cream;
- 26 (37) 75% MetroGel;
- 27 (38) 17 Albuterol inhaler;
- 28 (39) 75 25 mg tablets of Vistaril;

- (40) 30 100 mg tablets of Thorazine;
- (41) 4 25 mg tablets of Chlorpromazine;
- (42) 1 1% Triamcinolone cream;
- (43) 19 300 mg tablets of Seroquel;
- (44) 1 1% Spectazole cream;
- (45) 1 2.5% Hydrocortisone;
- (46) 2 500 mg tablets of Amoxicillin;
- (47) 13 100 mg tablets of Zoloft;
- (48) Duofilm;
- (49) 17 tablets of Codeine Phosphate/APAP;
- (50) 16 5 mg tablets of Dextrostat;
- (51) 56 0.5 mg tablets of Klonopin;
- (52) 3 200 mg tablets of Celebrex;
- (53) Promethazine cough syrup with Codeine; and
- (54) 4 mg tablets of Doxycycline.

SECOND CAUSE FOR DISCIPLINE
(Unlawful Possession of Controlled Substances)
(Bus. & Prof. Code §§4060 & 4301(j))
H & S Code 11350(a))

111. Respondent is subject to disciplinary action under Code section 4301(j) in that she violated Code section 4060 and Health and Safety Code section 11350(a) by illegally possessing controlled substances without a prescription. The circumstances are as follows:

112. Complainant realleges the allegations contained in paragraphs:

- 99: (1), (2), (17), (20), (21), (28), (30), (31), and (35);
- 104: (3), (5), (8), (11), (18), and (20);
- 110: (1), (2), (3), (4), (5), (6), (7), (8), (28), (49), (50), (51), (53);

above and incorporates them by reference.

113. On or about February 11, 2003, John Emison, M.D., prescribed Vicodin RX# 1037949 (30 tablets) to respondent's daughter.

114. On or about February 18, 2003, respondent refilled the prescription of Vicodin RX# 772453 (300 tablets) allegedly for her daughter using the name of Dr. Emison without authorization.

115. On or about February 18, 2003, respondent filled a prescription for Lortab Elixir RX# 772453 allegedly for her daughter using the name of Dr. Emison without authorization.

116. On or about November 12, 1999 through May 5, 2003, Joseph Cirone, M.D., prescribed Claritin D, Tussi-12, Albuterol MDI and other medications to respondent's daughter.

117. On or about November 12, 1999, respondent filled a prescription for Trihist-CS RX# 710873 allegedly for her daughter using the name of Dr. Cirone without authorization.

THIRD CAUSE FOR DISCIPLINE
**(Unlawful Possession of Controlled Substances
by Nonconforming Prescriptions)
(Bus. & Prof. Code §4301(j)
H & S Code §11175)**

118. Respondent is subject to disciplinary action under Code section 4301(j) in that she violated Health and Safety Code section 11175 by illegally possessing controlled substances by a nonconforming prescription. The circumstances are as follows:

119. Complainant realleges the allegations contained in paragraphs 113 through 117 above and incorporates them by reference.

FOURTH CAUSE FOR DISCIPLINE
**(Unlawful Prescription Refill Without Authorization)
(Bus. & Prof. Code §§4063, 4301(j))**

120. Respondent is subject to disciplinary action under Code section 4301(j) in that she refilled prescriptions without authorization, in violation of Code section 4063. The circumstances are as follows:

121. Complainant realleges the allegations contained in paragraphs 101 and 114 through 117 above and incorporates them by reference.

122. On or about July 12, 2000, Norman Woods, M.D., prescribed Fiorinal RX# 728945 to respondent.

123. On or about July 19, 2000 and September 30, 2000, refilled prescriptions for herself for Fiorinal RX# 728945 (30 tablets) using the name of Dr. Woods without authorization.

FIFTH CAUSE FOR DISCIPLINE
(Furnishing Dangerous Drugs Without Authorization)
(Bus. & Prof. Code §§4059, 4301(j))

124. Respondent is subject to disciplinary action under Code section 4301(j) in that she furnished dangerous drugs without authorization, in violation of Code section 4059. The circumstances are as follows:

125. Complainant realleges the allegations contained in paragraphs 101 and 113 through 117 above and incorporates them by reference.

126. On or about January 2, 2001, respondent filled a prescription for Poly-Histine CS RX# 741561 allegedly for her daughter using the name of Dr. Cirone without authorization.

SIXTH CAUSE FOR DISCIPLINE
(Criminal Convictions)
(Bus. & Prof. Code §4301 (l))
H & S Code §11157)

127. On or about November 5, 2004, respondent pled Nolo Contendere to the violation of Penal Code section 484-487(b)(3), Grand Theft by Employee, Agent, or Servant, a felony, and Health and Safety Code section 11157, False or Fictitious Prescription, a misdemeanor (*Santa Clara County Superior Court, Case No. CC335845*). The circumstances underlying said convictions involved respondent's theft of prescription medications and issuance of false prescriptions while employed as a pharmacist at Leiter's Pharmacy and Tropicana Pharmacy, as alleged above. Respondent was placed on three years probation. She was ordered to spend one day in jail, and pay restitution to Leiter's Pharmacy of \$24,000.00 and to Tropicana Drugs of \$6,521.94. Respondent was ordered to not be employed as a pharmacist and to enter a psychological treatment program. The court further ordered respondent to submit to drug tests and searches of her person, residence, vehicle and property.

128. The criminal convictions of respondent, as alleged in paragraph 127, are substantially related to the qualifications, functions, and duties of a pharmacist and constitute grounds for disciplinary action under Code section 4301(l).

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number 35430, issued to Sybil Stramler Gebhard;

2. Ordering Sybil Stramler Gebhard to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/13/05

P. J. Harris

PATRICIA F. HARRIS, Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant